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असाधारण

EXTRAORDINARY

भाग II—खण्ड 2

PART II—Section 2

प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

RAJYA SABHA

The following Bill was introduced in the Rajya Sabha on the 9th December, 2004:—

BILL No. LII OF 2004

A Bill to provide for regulating the quality of seeds for sale, import and export and to facilitate production and supply of seeds of quality and for matters connected therewith or incidental thereto.

Be it enacted by Parliament in the Fifty-fifth Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

1. (1) This Act may be called the Seeds Act, 2004.

(2) It extends to the whole of India.

(3) Save as otherwise provided in this Act, it shall apply to—

(a) every dealer; and

(b) every producer of seed except when the seed is produced by him for his own use and not for sale.

(4) It shall come into force on such date as the Central Government may, by notification, appoint:

Short title,
extent,
application
and com-
mencement.

Provided that different dates may be appointed for different provisions of this Act and any reference in any such provision to the commencement of this Act shall be construed as a reference to the coming into force of that provision.

Definitions.

2. In this Act, unless the context otherwise requires,—

(1) "agriculture" includes horticulture, forestry, cultivation of plantation, medicinal and aromatic plants;

(2) "Central Seed Testing Laboratory" means the Central Seed Testing Laboratory established or declared as such under sub-section (1) of section 32;

(3) "Certification Agency" means an agency established under section 26 or accredited under section 27 or recognised under section 30;

(4) "Chairperson" means the Chairperson of the Committee;

(5) "Committee" means the Central Seed Committee constituted under sub-section (1) of section 3;

(6) "container" means a box, bottle, casket, tin, barrel, case, receptacle, sack, bag, wrapper or other thing in which any article or thing is placed or packed;

(7) "dealer" means a person who carries on the business of buying and selling, exporting or importing seed, and includes an agent of a dealer;

(8) "essentially derived variety", in relation to a variety or an initial variety, means a variety of seeds essentially derived from such initial variety when it—

(a) is predominantly derived from such initial variety, or from a variety that itself is predominantly derived from such initial variety, while retaining the expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety;

(b) is clearly distinguished from such initial variety; and

(c) conforms (except for the differences which result from the act of derivation) to such initial variety in the expression of the essential characteristics that result from the genotype or combination of genotypes of such initial variety;

(9) "export" means taking out of India by land, sea or air;

(10) "extant variety" means a variety available in India which—

(a) had been notified under section 5 of the Seeds Act, 1966 and remains as such on the date of commencement of this Act; or 54 of 1966.

(b) is a farmers' variety as defined in clause (1) of section 2 of the Protection of Plant Varieties and Farmers' Rights Act, 2001; or 53 of 2001.

(c) is a variety about which there is common knowledge; or

(d) a variety other than a variety referred to in sub-clauses (a) to (c) and is in the public domain;

(11) "farmer" means any person who cultivates crops either by cultivating the land himself or through any other person but does not include any individual, company, trader or dealer who engages in the procurement and sale of seeds on a commercial basis;

(12) "horticulture nursery" means any place, where horticulture plants are, in the regular course of business, produced or propagated and sold for transplantation;

(13) "import" means bringing into India by land, sea or air;

(14) "kind" means one or more related species or sub-species of crop plants each individually or collectively known by one common name such as cabbage, maize, paddy and wheat;

(15) "member" means a member of the Committee;

(16) "misbranded" a seed shall be deemed to be misbranded if—

(i) it is a substitute for, or resembles in a manner likely to deceive another variety of seed under the name of which it is sold, and is not plainly and conspicuously labelled so as to indicate its true nature;

(ii) it is falsely stated to be the product of any place or country;

(iii) it is sold by a name which belongs to another kind or variety of seed;

(iv) false claims are made for it upon the label or otherwise;

(v) when sold in a package which has been sealed or prepared by, or at the instance of, the dealer and which bears his name and address, the contents of each package are not conspicuously and correctly stated on the outside thereof within the limits of variability prescribed under this Act;

(vi) the package containing it, or the label on the package bears any statement, design or device regarding the quality or the kind or variety of seed contained therein, which is false or misleading in any material particular or if the package is otherwise deceptive with respect to its contents;

(vii) it is not registered in the manner required by or under this Act;

(viii) the label contains any reference to registration other than the registration number;

(ix) its label does not contain a warning or caution which may be necessary and sufficient, if complied with, to protect human, animal and plant life and health or to avoid serious prejudice to the environment;

(x) the package containing it or the label on the package bears the name of a fictitious individual or company as the dealer of the kind or variety;

(xi) it is not labelled in accordance with the requirements of this Act or the rules made thereunder;

(17) "notification" means a notification published in the Official Gazette;

(18) "prescribed" means prescribed by rules made under this Act;

(19) "producer" means a person, group of persons, firm or organisation who grows or organises the production of seeds;

(20) "registered kind or variety", in relation to any seed, means any kind, or variety thereof, registered under section 13;

(21) "Registration Sub-Committee" means the Registration Sub-Committee constituted under sub-section (1) of section 7;

(22) "regulation" means a regulation made by the Committee under this Act;

(23) "seed" means any type of living embryo or propagule capable of regeneration and giving rise to a plant of agriculture which is true to such type;

(24) "Seed Analyst" means a Seed Analyst appointed under sub-section (1) of section 33;

(25) "Seed Inspector" means a Seed Inspector appointed under sub-section (1) of section 34;

(26) "seed processing" means the process by which seeds and planting materials are dried, threshed, shelled, ginned or delinted (in cotton), cleaned, graded or treated;

(27) "spurious seed" means any seed which is not genuine or true to type;

(28) "State Government", in relation to a Union territory, means the administrator thereof;

(29) "State Seed Testing Laboratory", in relation to any State, means the State Seed Laboratory established or declared as such under sub-section (2) of section 32 for that State;

(30) "transgenic variety" means seed or planting material synthesized or developed by modifying or altering the genetic composition by means of genetic engineering;

(31) "variety" means a plant grouping except micro-organism within a single botanical taxon of the lowest known rank, which can be—

(a) defined by the expression of the characteristics resulting from a given genotype of that plant grouping;

(b) distinguished from any other plant grouping by expression of at least one of the said characteristics; and

(c) considered as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation, and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety.

CHAPTER II

THE CENTRAL SEED COMMITTEE, REGISTRATION AND OTHER SUB-COMMITTEES

Constitution
of Central Seed
Committee.

3. (1) The Central Government shall, by notification, constitute, for the purpose of this Act, a Committee to be called the Central Seed Committee.

(2) The headquarters of the Central Seed Committee shall be at New Delhi.

Composition
of the Com-
mittee.

4. (1) The Committee shall consist of a Chairperson, members, *ex officio* and other members, to be nominated by the Central Government.

(2) The Secretary to the Government of India in the Department of Agriculture and Co-operation, Ministry of Agriculture, shall be the Chairperson, *ex officio*.

(3) The Committee shall consist of the following *ex officio* members, namely:—

(i) the Agriculture Commissioner, Department of Agriculture and Co-operation, Government of India;

(ii) the Deputy Director General (Crop Sciences), Indian Council of Agricultural Research;

(iii) the Deputy Director General (Horticulture), Indian Council of Agricultural Research;

(iv) the Joint Secretary in charge of seeds in the Department of Agriculture and Co-operation, Government of India;

(v) the Horticulture Commissioner, Department of Agriculture and Co-operation, Government of India;

(vi) a representative of the Department of Bio-technology, Government of India, not below the rank of Joint Secretary to the Government of India;

(vii) a representative of the Ministry of Environment and Forests, Government of India, not below the rank of Joint Secretary to the Government of India.

(4) The Committee shall consist of the following other members to be nominated by the Central Government, namely:—

(i) the Secretary (Agriculture) from five States, one each from three out of the five geographical zones of the country as mentioned in the Schedule on rotation basis;

(ii) Director, State Seed Certification Agency from one State which is not represented under clause (i);

(iii) Managing Director, State Seeds Corporation, from one State which is not represented under clause (i) or clause (ii);

(iv) two representatives of farmers;

(v) two representatives of seed industry;

(vi) two specialists or experts in the field of seed development.

(5) The Committee may associate with it, in such manner, on such terms and for such purposes as it may deem fit, any person whose assistance or advice it may desire in complying with any of the provisions of this Act, and a person so associated shall have the right to take part in the discussion of the Committee relevant to the purposes for which he has been associated, but shall not have the right to vote and shall be entitled to receive such allowances or fees as may be fixed by the Central Government.

(6) A Member nominated under sub-section (5) shall, unless his seat becomes vacant earlier by resignation, death or otherwise, be entitled to hold office for two years from the date of his nomination but shall be eligible for re-nomination provided that the said member shall hold office only for so long as he holds the appointment by virtue of which his nomination was made.

(7) Save as otherwise provided, the terms and conditions of appointment of the members shall be such as may be prescribed.

(8) A member other than an *ex officio* member may resign his office by giving notice in writing to the Central Government and on such resignation being accepted, he shall be deemed to have vacated his office.

(9) A person shall be disqualified for being nominated or appointed as a member if he—

(i) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(ii) is an undischarged insolvent; or

(iii) is of unsound mind and stands so declared by a competent court.

(10) No act or proceeding of the Committee shall become invalid merely by reason of—

(i) any vacancy therein, or any defect in the constitution thereof; or

(ii) any defect in the appointment of a person acting as the Chairperson or a member of the Committee; or

(iii) any irregularity in the procedure of the Committee not affecting the merits of the case.

(11) The Central Government may, at any time, remove from office any member other than member, *ex officio* after giving him a reasonable opportunity of showing cause against the proposed removal.

5. The Committee shall be responsible for and shall have all the powers for the effective implementation of this Act and shall advise the Central Government and the State Governments on matters relating to—

Powers and
functions of
the
Committee.

(a) seed programming and planning;

(b) seed development and production;

(c) export and import of seeds;

(d) standards for registration, certification and seed testing;

(e) seed registration and its enforcement;

(f) such other matters as may be prescribed.

Powers of Committee to specify minimum limits of germination, purity, seed health, etc.

6. The Committee may, by notification, specify—

(a) the minimum limits of germination, genetic and physical purity, and maximum seed health, with respect to any seed of any kind or variety;

(b) the mark or label on the packet or container to indicate that such seed conforms to the minimum limits of germination, genetic and physical purity, and seed health specified under clause (a), and other particulars, such as expected performance of the seed in accordance with the information provided by the producer under section 14 which such mark or label may contain.

Registration and other Sub-Committees of the Committee and their functions.

7. (1) The Committee shall constitute a Sub-Committee to be called the Registration Sub-Committee consisting of a Chairman and such number of other members, to assist him in the discharge of the functions of the Committee, as may be prescribed.

(2) It shall be the duty of the Registration Sub-Committee—

(a) to register seeds of varieties after scrutinizing their claims as made in the application in such manner as may be prescribed;

(b) to perform such other functions as are assigned to it by the Committee.

(3) The Committee may appoint as many other Sub-Committees including a Sub-Committee on Seed Certification as it deems fit consisting wholly of the members of the Committee or wholly of other persons or partly of members of the Committee and partly of other persons as it thinks fit to exercise such powers and perform such duties as may be delegated to them.

Procedure of the Committee and its Sub-Committees. Secretary and other officers of the Committee.

8. The Committee may, subject to the previous approval of the Central Government, make regulations for the purpose of regulating its own procedure and the procedure of any Sub-Committee thereof.

9. The Central Government shall—

(a) appoint a person to be the Secretary of the Committee; and

(b) provide the Committee with such technical and other officers and employees as may be necessary for the efficient performance of the functions of the Committee under this Act.

Meetings of the Committee.

10. (1) The Committee shall meet as and when necessary at such time and place and shall observe such procedure in regard to transaction of business at its meetings (including the quorum at meetings) as may be provided by regulations.

(2) The Chairperson or, in his absence, the Agricultural Commissioner or, in the absence of both the Chairperson and the Agricultural Commissioner, any member chosen by the members present from amongst themselves, shall preside at a meeting of the Committee.

(3) All questions at a meeting of the Committee shall be decided by a majority of votes of the members present and voting and in the case of an equality of votes, the Chairperson or, in his absence, the Agricultural Commissioner or, in the absence of both the Chairperson and the Agricultural Commissioner the person presiding shall have and exercise a second or casting vote.

State Seed Committee.

11. Every State Government shall establish a State Seed Committee to—

(a) advise the Committee on registration of regional or local seeds of any kind or variety;

(b) advise the State Government on registration of seed producing units, seed processing units, seed dealers and horticulture nurseries;

(c) maintain, in each district, a list of seed dealers, seed producers, seed processing units and horticulture nurseries;

(d) seek information from persons engaged in the production, supply, distribution, trade or commerce in seeds of any kind or variety regarding stocks, prices, sales and other information in the manner as may be prescribed;

(e) advise the State Government and the Committee on all matters arising out of the administration and implementation of this Act; and

(f) carry out other functions assigned to, by, or under this Act.

CHAPTER III

REGISTRATION OF KINDS AND VARIETIES OF SEEDS, ETC.

12. (1) For the purposes of this Act, a register of all kinds and varieties of seed to be called the National Register of Seeds shall be kept by the Registration Sub-Committee wherein all specifications, as may be prescribed, shall be maintained.

Maintenance of National Register of Seeds of kinds and varieties.

(2) Subject to the directions of the Committee, the Register shall be kept under the control and management of the Registration Sub-Committee.

(3) The Registration Sub-Committee shall, within such intervals and in such manner as it thinks appropriate, publish the list of kinds and varieties of seed which have been registered during that interval.

13. (1) No seed of any kind or variety shall, for the purpose of sowing or planting by any person, be sold unless such seed is registered under sub-section (2) by the Registration Sub-Committee in such manner as may be prescribed.

Registration of seeds of any kind or variety.

(2) Subject to the provisions of sections 14 and 15, the Registration Sub-Committee may register or refuse to register any kind or variety of seeds on the basis of information furnished by the producer who develops the variety on the results of multi-locational trials for such period as may be prescribed to establish the performance of that seed:

Provided that no application for registration shall be refused under this sub-section unless the applicant has been given an opportunity to represent his case:

Provided further that seeds of any kind or variety in respect of which a valid registration exist on the date of commencement of this Act are not required to be registered again under this section on the basis of the information on the results of multi-location trials.

(3) The Registration Sub-Committee may grant provisional registration to the varieties of seeds which are available in the market on the date of commencement of this Act.

(4) A registration made under this Act shall be valid for a period of fifteen years in the case of annual and biennial crops, and eighteen years for long duration perennials.

(5) At the expiry of the period granted under sub-section (4), the kind or variety of seeds may be re-registered for a like period by the Registration Sub-Committee on the basis of information furnished by the producer on the results of such trials as may be prescribed under sub-section (2) to re-establish performance of the kind or variety of seeds.

(6) The Registration Sub-Committee shall have the power to issue such directions to protect the interests of a producer against any abusive act committed by any third party during the period between the date of filing of the application for registration and the date of decision by the Committee on such application.

14. (1) Every application for registration under sub-section (2) of section 13 shall be made in such form and contain such particulars and be accompanied by such fees as may be prescribed.

Procedure for registration.

(2) On receipt of any such application for the registration of a kind or variety of seed, the Registration Sub-Committee may, after such enquiry as it deems fit and after satisfying itself that the kind or variety of seed to which the application relates conforms to the claims made by the importer or by the seller, as the case may be, as regards the efficacy of the kind or variety of seed and its safety to human beings and animals, register the kind or variety, as the case may be, of the seed on such conditions as may be specified by it and allot a registration number thereto and issue a certification of registration.

(3) The Registration Sub-Committee may, having regard to the efficacy of the seeds and its safety to human beings and animals, vary the conditions subject to which a certificate of registration has been granted and may, for that purpose, require the certificate holder by notice in writing to deliver up the certificate to it within such time as may be specified in the notice.

Special provision for registration of transgenic varieties.

15. (1) Notwithstanding anything contained in section 14, no seed of any transgenic variety shall be registered unless the applicant has obtained a clearance in respect of the same as required by or under the provisions of the Environment (Protection) Act, 1986:

29 of 1986.

Provided that the Registration Sub-Committee may, subject to clearance under the said Act, grant provisional registration, for a period not exceeding two years on the basis of information furnished by the producer on the results of multi-locational trials conducted in the prescribed manner.

(2) Save as otherwise provided in sub-section (1), the form and manner in which and the procedure for registration of transgenic variety of seeds and the fees payable thereto shall be the same as applicable in case of registration under section 13.

Cancellation of registration of seeds of kinds and varieties.

16. (1) The Registration Sub-Committee may cancel any registration granted under section 13 or section 15 on any one or more of the following grounds, namely:—

(a) that the holder of the certificate has violated any of the terms and conditions of the registration; or

(b) that the registration has been obtained by misrepresentation or concealment of essential data; or

(c) that the variety is not performing in accordance with the information furnished by the producer under sub-section (2) of section 13 or become obsolete or outlived its utility and be made available for sale in the market in the public interest; or

(d) that prevention of commercial exploitation of such variety of seeds is necessary—

(i) in the public interest; or

(ii) to protect public order or public morality; or

(iii) to protect human beings, animals and plant life and health to avoid serious prejudice to the environment.

(2) No order of cancellation of registration under this section shall be made unless the holder thereof or the affected person concerned has been given a reasonable opportunity of showing cause in respect of the grounds for such cancellation.

Notification of cancellation of registration of seeds of kinds and varieties.

17. The Registration Sub-Committee shall notify the cancellation of a registration of any kind or variety of seed made under section 13, or a registration made under section 15 in the Official Gazette.

Exclusion of certain kinds or varieties of seeds from registration.

18. (1) Notwithstanding anything contained in this Act, no registration of any kind or variety of seeds shall be made under this Act, if prevention of commercial exploitation of such kind or variety is necessary to protect public order or public morality or human, animal or plant life and health, or to avoid serious prejudice to the environment.

(2) A kind or variety of seed containing any technology, which is harmful, or potentially harmful, shall not be registered.

Explanation.—For the purposes of this sub-section, the expression “technology” includes genetic use restriction technology and terminator technology.

19. The Committee may, for conducting trials to assess the performance, accredit centres of the Indian Council of Agricultural Research, State Agricultural Universities and such other organisations fulfilling the eligibility requirements as may be prescribed, to conduct trials to evaluate the performance of any kind or variety of seeds.

Evaluation of performance.

20. Where the seed of registered kind or variety is sold to a farmer, the producer, distributor or vendor, as the case may be, shall disclose the expected performance of such kind or variety to the farmer under given conditions, and if, such registered seed fails to provide the expected performance under such given conditions, the farmer may claim compensation from the producer, dealer, distributor or vendor under the Consumer Protection Act, 1986.

Compensation to farmer.

21. (1) No producer shall grow or organise the production of seed unless he is registered as such by the State Government under this Act.

(2) No person shall maintain a seed processing unit unless such unit is registered by the State Government under this Act.

(3) The State Government shall register a producer or seed processing unit if he or it meets the specifications prescribed by the Central Government in terms of infrastructure, equipment and qualified manpower.

(4) Every application for registration under sub-section (3) shall be made in such form and manner and shall be accompanied by such fees as may be prescribed.

(5) The State Government may, after making such enquiry and subject to such conditions as it thinks fit, grant a certificate for maintaining a seed producing or a seed processing unit in such form as may be prescribed.

(6) Every seed producing unit and every seed processing unit shall furnish periodic returns on the quantity of seeds of different kinds or varieties produced or processed by it to the Seed Certification Agency in such form and at such time as may be prescribed.

(7) The State Government may, after giving the holder of certificate of registration under sub-section (1) or sub-section (2), as the case may be, suspend or cancel the registration if—

(a) such registration has been obtained by misrepresentation as to a material particular relating to the specification in terms of infrastructure, equipment or availability of qualified manpower; or

(b) any of the provisions of this Act or the rules made thereunder has been contravened.

22. (1) Every person who desires to carry on the business of selling, keeping for sale, offering to sell, bartering, import or export or otherwise supply any seed by himself, or by any other person on his behalf shall obtain a registration certificate as a dealer in seeds from the State Government.

Seed dealers to be registered.

(2) Every applicant for dealership under sub-section (1) shall be required to furnish information about seed stocks, sales and other related information as may be prescribed.

(3) Every application for registration under sub-section (1) shall be made in such form and manner and shall be accompanied by such fees as may be prescribed.

(4) The State Government may, after making such enquiry and subject to such conditions as it thinks fit, grant a certificate of registration as a dealer in seeds in such form as may be prescribed.

(5) Every dealer registered under this section shall furnish to the State Government such information and returns regarding seed stocks, seed lots, expiry date of seed lots and other related information as may be prescribed.

(6) The State Government may, after giving the dealer an opportunity of being heard, suspend or cancel a certificate granted under this section if—

(a) such registration had been obtained by misrepresentation of any material fact;

(b) contravenes any of the provisions of this Act or the rules made justify thereunder.

Horticulture nursery to be registered.

23. (1) No person shall conduct or carry on the business of horticulture nursery for any of the purposes of this Act unless such nursery is registered with the State Government.

(2) Every application for registration under sub-section (1) shall be made in such form and contain such particulars and shall be accompanied by such fees as may be prescribed.

Duties of registration holders of horticulture nursery.

24. Every person who is a holder of a registration of a horticulture nursery under section 23 shall—

(a) keep a complete record of the origin or source of every planting material and performance record of mother trees in the nursery;

(b) keep a layout plan showing the position of the root-stocks and scions used in raising the horticulture plants;

(c) keep a performance record of the mother trees in the nursery;

(d) keep the nursery plants as well as the parent trees used for the production or propagation of horticulture plants free from infectious or contagious insects, pests or diseases affecting plants; and

(e) furnish such information to the State Government on the production, stocks, sales and prices of planting material in the nursery as may be prescribed.

CHAPTER IV

REGULATION OF SALE OF SEED AND SEED CERTIFICATION AGENCIES

Regulation of sale of seeds of registered kinds and varieties.

25. No person shall, himself or by any other person on his behalf, carry on the business of selling, keeping for sale, offering to sell, bartering, import or export or otherwise supply any kind of seed of any registered kind or variety unless—

(a) such seed is identifiable as to its kind or variety;

(b) such seed conforms to the minimum limit of germination and genetic, physical purity, maximum seed health specified under clause (a) of section 6;

(c) the container of such seed bears in the prescribed manner, the mark or label bearing the correct particulars thereof, specified under clause (b) of section 6;

(d) the container of such seed, in the case of transgenic varieties, bears a declaration to this effect; and

(e) he complies with such other requirements as may be prescribed.

State Seed Certification Agency.

26. The Committee may, in consultation with the State Government, by notification, establish a State Seed Certification Agency for the State to carry out the functions entrusted to the State Seed Certification Agency by or under this Act.

Accreditation of Seed Certification Agencies.

27. (1) The Committee may, in consultation with the State Government and the State Seed Committee, accredit—

(a) organisations to carry out certification, on the fulfilment of such criteria, as may be prescribed, or

(b) individuals or seed producing organisations to carry out self-certification, in such manner as may be prescribed.

(2) The accredited organisations, individuals and seed producing organisations shall be subject to such inspection and control of the Committee, the concerned State Government and State Seed Certification Agency, as may be prescribed.

(3) The accreditation may be withdrawn by the Committee, for reasons to be recorded in writing and after giving to the concerned organisation or individual, as the case may be, a reasonable opportunity of being heard.

28. (1) Any person selling, keeping for sale, offering to sell, bartering or otherwise supplying any seed of any registered kind or variety may, if he desires to have such seed certified by the State Seed Certification Agency, apply to that Agency for the grant of a certificate for the purpose.

Grant of certificate by the State Seed Certification Agency.

(2) Every application under sub-section (1) shall be made in such form, shall contain such particulars and shall be accompanied by such fees as may be prescribed.

(3) On receipt of an application under sub-section (1), the State Seed Certification Agency may, after such enquiry as it thinks fit and after satisfying itself that the seed to which the application relates conforms to the prescribed standards, grant a certificate in such form and on such conditions as may be prescribed:

Provided that such standards shall not be lower than the minimum limit of germination, genetic and physical purity specified for that seed under clause (a) of section 6.

29. If the State Seed Certification Agency is satisfied, either on a reference made to it in this behalf or otherwise, that—

Revocation of certificate.

(a) the certificate granted by it under section 28 has been obtained by misrepresentation as to an essential fact; or

(b) the holder of the certificate has, without reasonable cause, failed to comply with the conditions subject to which the certificate has been granted or has contravened any of the provisions of this Act or the rules made thereunder,

then, without prejudice to any other penalty to which the holder of the certificate may be liable under this Act, the State Seed Certification Agency may, after giving the holder of the certificate an opportunity of showing cause, revoke the certificate.

30. The Central Government may, on the recommendation of the Committee and by notification, recognise any seed certification agency established in any foreign country, for the purposes of this Act.

Recognition of seed certification agencies in foreign countries.

CHAPTER V

APPEALS

31. (1) Any person aggrieved by a decision of the Registration Sub-Committee under section 14 or section 16 or section 27 or of the State Seed Certification Agency under section 28 or section 29 may, within thirty days from the date on which the decision is communicated to him prefer an appeal to such authority (hereinafter referred to as the appellate authority) as the Central Government may think fit to constitute:

Appeals.

Provided that the appellate authority may entertain an appeal after the expiry of the said period of thirty days if it is satisfied that the appellant was prevented by sufficient cause from filing the appeal in time.

(2) An appellate authority shall consist of a single person or three persons as the Central Government may think fit, to be appointed by that Government.

(3) The form and manner in which an appeal may be preferred under sub-section (1), the fee payable for such appeal and the procedure to be followed by the appellate authority shall be such as may be prescribed.

(4) On receipt of an appeal preferred under sub-section (1), the appellate authority shall, after giving the appellant and the other party an opportunity of being heard, dispose of the appeal as expeditiously as possible.

CHAPTER VI

SEED ANALYSIS AND SEEDS TESTING

Central and
State Seed
Testing
Laboratories.

32. (1) The Central Government may, by notification, establish a Central Seed Testing Laboratory or declare any seed testing laboratory as the Central Seed Testing Laboratory to carry out the functions entrusted to the Central Seed Testing Laboratory by or under this Act in the prescribed manner.

(2) The State Government may, in consultation with the Committee, and by notification, establish one or more State Seed Testing Laboratories or declare any seed testing laboratory in the Government or non-Government sector as a State Seed Testing Laboratory where analysis of seed of any kind or variety shall be carried out, under this Act, in the prescribed manner.

(3) Every Seed Testing Laboratory referred to in sub-section (1) shall have as many Seed Analysts as the Central Government may consider necessary.

(4) Every Seed Testing Laboratory referred to in sub-section (2) shall have as many Seed Analysts as the State Government may consider necessary.

Seed Analysts.

33. (1) In case of the Central Seed Laboratory, the Central Government and in other cases the State Government may, by notification, appoint such persons as the concerned Government thinks fit and having the prescribed qualifications to be Seed Analysts and define the local limits of their jurisdiction.

(2) Every Central Seed Testing Laboratory established or declared under sub-section (1) of section 32 and every State Seed Testing Laboratory established or declared under sub-section (2) of that section shall have as many Seed Analysts as the Central Government or the State Government, as the case may be, specify.

Seed
Inspectors.

34. (1) The State Government may, by notification, appoint such persons as it thinks fit, having the prescribed qualifications, to be Seed Inspectors and define the areas within which they shall exercise jurisdiction.

(2) Every Seed Inspector shall be subordinate to such authority as the State Government may specify in this behalf.

Powers of Seed
Inspectors.

35. (1) The Seed Inspector may—

(a) take samples of any seed of any kind or variety from—

(i) any person selling such seed; or

(ii) any person who is in the course of conveying, delivering or preparing to deliver such seed to a purchaser or a consignee; or

(iii) a purchaser or a consignee after delivery of such seed to him;

(b) send such sample for analysis to the Seed Analyst of the area within which such sample has been taken;

(c) enter and search, at all reasonable times, with such assistance, if any, as he considers necessary, any place in which he has reason to believe that an offence under this Act has been or is being committed and order in writing the person in possession of any seed in respect of which the offence has been or is being committed, not to dispose of any stock of such seed for a specific period not exceeding thirty days or, unless the alleged offence is such that the defect may be removed by the possessor of the seed, seize the stock of such seed;

(d) examine any record, register, document or any other material object found in any place mentioned in clause (c) and seize the same if he has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act; and

(e) exercise such other powers as may be necessary for carrying out the purposes of this Act or any rule or regulation made thereunder.

(2) The power conferred by this section includes the power to break-open any container in which any seed of any kind or variety may be contained or to break-open the door of any premises where any such seed may be kept for sale:

Provided that the power to break-open the door shall be exercised only after the owner or any other person in occupation of the premises, if he is present therein, refuses to open the door on being called upon to do so.

(3) Where the Seed Inspector takes any action under clause (a) of sub-section (1), he shall, as far as possible, call not less than two independent and respectable persons to be present at the time when such action is taken and take their signatures on a memorandum to be prepared in such form and manner as may be prescribed.

2 of 1974.

(4) The provisions of the Code of Criminal Procedure, 1973, or in relation to the State of Jammu and Kashmir, the provisions of any corresponding law in force in that State, shall, so far as may be, apply to any search or seizure under this section as they apply to any search or seizure made under the authority of a warrant issued under section 94 of the said Code, or, as the case may be, under the corresponding provisions of the said law.

CHAPTER VII

IMPORT AND EXPORT OF SEEDS

36. (1) All import of seeds—

Import of seeds.

2 of 1914.

(a) shall be subject to the provisions of the Plant Quarantine (Regulation of Import into India) Order, 2003, or any corresponding order made under section 3 of the Destructive Insects and Pests Act, 1914;

(b) shall conform to minimum limits of germination, genetic and physical purity, and seed health as prescribed under section 6; and

(c) shall be subject to registration as may be granted on the basis of information furnished by the importer on the results of multi-locational trials for such period as may be prescribed to establish agronomic performance.

(2) The Central Government may, by notification, permit to import an unregistered variety in such quantity and subject to fulfilling such conditions as may be specified in that notification for research purposes.

37. The Central Government may, on the advice of the Committee, restrict, by notification, the export of seeds of any kind or variety if it is deemed that such export may adversely affect the food security of the country, or if it is felt that the reasonable requirements of the public will not be met, or on such other grounds as may be prescribed.

Export of seeds.

CHAPTER VIII

OFFENCES AND PUNISHMENT

38. (1) If any person—

Offences and punishment.

(a) contravenes any provision of this Act or any rule made thereunder; or

(b) imports, sells, stocks or exhibits for sale or barter or otherwise supplies any seed of any kind or variety deemed to be misbranded; or

(c) imports, sells, stocks or exhibits for sale or barter, or otherwise supplies any seed of any kind or variety without a certificate of registration; or

(d) obstructs the Committee, Registration Sub-Committee or Seed Certification Agency or Seed Inspector or Seed Analyst or any other authority appointed or duly empowered under this Act in the exercise of its powers or discharge of their duties under this Act or the rules made thereunder,

he shall, on conviction, be punishable with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees.

(2) If any person sells any seed which does not conform to the standards of physical purity, germination or health or does not maintain any records required to be maintained under this Act or the rules made thereunder he shall, on conviction, be punishable with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees.

(3) If any person furnishes any false information relating to the standards of genetic purity, misbrands any seed or supply any spurious seed or spurious transgenic variety or sells any non-registered seeds he shall, on conviction be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

Forfeiture of property.

39. When any person has been convicted under this Act for the contravention of any of the provisions of this Act or the rules made thereunder, the seed in respect of which the contravention has been committed shall be forfeited to the Central Government.

Offences by companies.

40. (1) Where an offence under this Act has been committed by a company, every person who at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment under this Act if he proves that the offence was committed without his knowledge and that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purpose of this section,—

(a) “company” means any body corporate and includes a firm or other association of individuals; and

(b) “director”, in relation to a firm, means a partner in the firm.

CHAPTER IX

POWER OF CENTRAL GOVERNMENT

Power of Central Government to give directions to the State Governments.

41. The Central Government may give such directions to any State Government as may appear to the Central Government to be necessary for carrying into execution in the State any of the provisions of this Act or of any rule made thereunder.

42. (1) Without prejudice to the foregoing provisions of this Act, the Committee shall, in the discharge of its functions and the performance of duties under this Act, be bound by such directions on questions of policy as the Central Government may give in writing to it from time to time.

Power of Central Government to issue directions to the Committee.

(2) The decision of the Central Government whether a question is one of policy or not shall be final.

43. (1) Nothing in this Act shall restrict the right of the farmer to save, use, exchange, share or sell his farm seeds and planting material, except that he shall not sell such seed or planting material under a brand name or which does not conform to the minimum limit of germination, physical purity, genetic purity prescribed under clause (a) or clause (b) of section 6.

Exemption from registration.

(2) The Central Government may, by notification, and subject to conditions, if any, as it may specify therein, exempt from all or any of the provisions of this Act or the rules made thereunder, any educational, scientific or research or extension organisation.

CHAPTER X

MISCELLANEOUS

44. No suit, prosecution or other legal proceeding shall lie against the Government or any person for anything which is in good faith done or intended to be done under this Act.

Protection of action taken in good faith.

45. (1) If any difficulty arises in giving effect to the provisions of this Act, the Central Government may, by order, published in the Official Gazette, make such provisions not inconsistent with the provisions of this Act as may appear to be necessary for removing the difficulty:

Power to remove difficulties.

Provided that no order shall be made under this section after the expiry of two years from the date of commencement of this Act.

(2) Every order made under sub-section (1) shall be laid before each House of Parliament.

46. (1) The Central Government may, by notification, make rules to carry out the provisions of this Act.

Power of Central Government to make rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:—

(a) the terms and conditions of appointment of members of the Committee under sub-section (7) of section 4;

(b) the matters to be prescribed under clause (f) of section 5;

(c) the number of other members who shall assist the Chairperson of the Registration Sub-Committee to discharge its functions under sub-section (1) of section 7;

(d) the manner of scrutinizing the claims as made in the applications under clause (a) of sub-section (2) of section 7;

(e) the manner of seeking information by a State Seed Committee under clause (d) of section 11;

(f) the specifications which shall be maintained in the National Register of Seeds of kinds or varieties under sub-section (1) of section 12;

(g) the manner of registration of seed of any kind or variety under sub-section (1) of section 13;

(h) the period which required to establish performance of seed on the results of multi-location trials conducted under sub-section (2) of section 13;

(i) the form of application and the particulars which should be furnished, and the fee which should accompany, such application under sub-section (1) of section 14;

(j) the eligibility requirement which an organisation shall fulfil for accreditation under section 19;

(k) the specification required to be fulfilled for registration as a producer or seed producing unit under sub-section (3) of section 21;

(l) the form and manner in which an application for registration under sub-section (3) of section 21 shall be made and the fee which shall accompany such application under sub-section (4) of the said section;

(m) the form in which a certificate for maintaining a seed producing or seed processing unit may be granted under sub-section (5) of section 21;

(n) the form in which and the time within which periodic returns shall be filled under sub-section (6) of section 21;

(o) the information which an applicant for dealership in seeds shall be furnished under sub-section (2) of section 22;

(p) the form and manner in which an application for registration as seed dealer under sub-section (1) of section 22 shall be made and the fee which shall accompany such application under sub-section (3) of that section;

(q) the form in which a certificate of registration as a dealer in seeds shall be granted under sub-section (4) of section 22;

(r) the information and return which a registered dealer shall furnish to the State Government under sub-section (5) of section 22;

(s) the form in which an application for registration of a horticulture nursery shall be made, the particulars which such application shall contain and fee which shall accompany such application under sub-section (2) of section 23;

(t) the information on production, stocks, sales and prices of planting material in a nursery which shall be furnished to the State Government under section 24;

(u) the manner in which the container of seeds shall bear the mark or label under clause (c) of section 25;

(v) the requirement which a person carrying on business of selling, etc., of any registered kind or variety of seeds shall comply with under clause (e) of section 25;

(w) the criteria to be fulfilled under clause (a) and the manner of carrying out self-certification under clause (b) of sub-section (1) of section 27;

(x) the inspection and control which the Committee, the concerned State Government and the State Seeds Certification Agency shall carry out or have on an accredited individual and seed producing organizations under sub-section (2) of section 27;

(y) the form of application and the particulars to be furnished in such application and the fee which shall accompany such application under sub-section (2) of section 28;

(z) the form in which and the conditions subject to which a certificate shall be granted under sub-section (3) of section 28;

(za) the form and manner in which an appeal shall be preferred and the fee which such appeal shall accompany and the procedure which the appellate authority shall follow under sub-section (3) of section 31;

(zb) the manner in which a Central Seed Testing Laboratory established or declared under sub-section (1) of section 32 shall carry out its functions;

(zc) the manner of carrying out analysis of seeds under sub-section (2) of section 32;

(zd) the qualifications which a person to be appointed as Seed Analyst shall possess under sub-section (1) of section 33;

(ze) the qualifications which a person to be appointed as Seed Inspector shall possess under sub-section (1) of section 34;

(zf) the form and manner in which the memorandum shall be prepared under sub-section (3) of section 35;

(zg) the grounds on which the Central Government may restrict export of seeds under section 37;

(zh) any other matter which is to be or may be prescribed.

47. (1) The Committee may, with the previous approval of the Central Government, by notification, make regulations not inconsistent with the provisions of this Act and the rules made thereunder, to provide for all matters for which provision is necessary or expedient for the purpose of giving effect to the provisions of this Act.

Power of
Committee
to make
regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters, namely:—

(a) the procedure for conduct of business to be transacted by the Committee or any Sub-Committee thereof under section 8;

(b) the procedure in regard to transaction of business at meetings of the Committee (including the quorum at meetings) under sub-section (1) of section 10;

(c) any other matter in respect of which regulations are to be or may be made.

48. Every rule and every regulation made under this Act shall be laid as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation or both Houses agree that the rule or regulation should not be made, the rule or regulation shall, thereafter, have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

Rules and
regulations to
be laid before
Parliament.

54 of 1966.

49. (1) The Seeds Act, 1966 is hereby repealed.

Repeal and
savings.

10 of 1897.

(2) Without prejudice to the provisions contained in the General Clauses Act, 1897, with respect to repeals, no such repeal shall affect—

(a) the previous operation of the law so repealed or anything duly done or suffered thereunder; or

(b) any right, privilege, obligation or liability acquired, accrued or incurred under the law so repealed; or

(c) any penalty, forfeiture or punishment incurred in respect of any offence committed against the Act so repealed; or

(d) any investigation, proceeding, legal proceeding or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture or punishment as aforesaid; and any such investigation, proceedings, legal proceeding or remedy may be instituted, continued or enforced; any such penalty, forfeiture or punishment may be imposed as if this Act had not been passed:

Provided further that, subject to the first proviso and any saving provisions made elsewhere in this Act anything done, any action taken, any rule made, any notification or

order issued under the provisions of the Act so repealed shall, in so far as they are not inconsistent with the provisions of this Act, be deemed to have been done, taken, made or issued under the corresponding provisions of this Act, and shall continue to be in force accordingly, unless and until expressly or impliedly repealed by anything done, action taken, rules made or, notification or order issued under this Act.

(2) Notwithstanding such repeal any kind or variety of seeds that has been notified under the law as so repealed shall be deemed to have been registered under this Act, and any seed certification agency established under section 18 of the Seeds Act, 1966 shall be deemed to have been established or recognised, as the case may be, under this Act. 54 of 1966.

THE SCHEDULE

[See section 4(4)(i), (ii) and (iii)]

GEOGRAPHICAL ZONES

ZONE-I	Andhra Pradesh, Karnataka, Kerala, Lakshadweep, Pondicherry and Tamil Nadu.
ZONE-II	Andaman Nicobar Islands, Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Orissa and West Bengal.
ZONE-III	Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim and Tripura.
ZONE-IV	Dadra and Nagar Haveli, Daman and Diu, Goa, Gujarat, Rajasthan and Maharashtra.
ZONE-V	Chandigarh, Haryana, Himachal Pradesh, Jammu and Kashmir, National Capital Territory of Delhi, Punjab, Uttaranchal and Uttar Pradesh.

STATEMENT OF OBJECTS AND REASONS

In the interest of increased agricultural production in India, it was considered necessary to regulate the quality of certain seeds such as seeds for food crops, cotton seeds and "Jute seeds" to be sold for the purpose of agriculture including horticulture. It was, therefore, considered necessary to have a legislation for regulating the quality of certain seeds and accordingly the Seeds Act, 1966 was enacted. However, during the working of the said Act for more than four decades, the following deficiencies have been noticed: —

(a) the Act regulates only notified kinds and varieties of seeds and does not provide for regulation of research hybrid varieties or varieties which are "not notified";

(b) registration of seeds is not compulsory under the Act;

(c) green manure seeds, commercial crops, plantation crops and the like are not covered under the Act;

(d) the Act does not contain provisions for self-certification or accreditation of private seed testing laboratories or for regulation of transgenic materials;

(e) the provisions for exempting the sale of seed for purposes other than for sowing or planting are ambiguous;

(f) the penalties for contravention of the provisions of the Act are very mild and inadequate for any deterrent effect.

2. Further, it has been noticed that far-reaching changes have taken place in the field of agriculture since the enactment of the Seeds Act, 1966. The plateauing of agricultural growth during the last decade has necessitated new strategies to ensure food security. Availability of good quality seeds to the Indian farmers is a key factor in order to attain the objective of 'doubling food production in ten years'. A quantum increase in production can be effected only by enhancing Seed Replacement Rates of various crops or, in other words, by increasing the use of quality seeds in comparison with farmers' saved seeds. A sustained increase in agricultural production and productivity has become dependent on the development of new and improved varieties of crops. This will require a vastly expanded role for the private seed industry as well. The creation of a facilitative climate for growth of the seed industry, boosting of exports and encouragement of imports of useful germplasm lies at the core of the agriculture strategy in the new millennium.

3. Also, Biotechnology is likely to be a vital element in agricultural development in the coming decades. A conducive atmosphere for enhanced investment in research and development for application of frontier sciences in the development of varieties has been sought to be created through the Protection of Plant Varieties and Farmers' Rights Act, 2001. However, the Seed legislation has to address the issue of promoting sale of newly developed materials while ensuring that the interest of the farmers and the sustainability of Indian agriculture are not jeopardized.

4. It has become necessary that the existing provisions contained in the Seeds Act, 1966 and the Seed (Control) Order, 1983 made under the Essential Commodities Act, 1955 should be substantially revised to address the issues outlined above. The need for wide-ranging changes has also been supported by the National Agriculture Policy, which *inter alia* states "Development, production and distribution of improved varieties of seed and planting materials and strengthening and expansion of seed and plant certification system with private sector participation will receive a high priority."

5. In view of the above, it is proposed to replace the Seeds Act, 1966 by a new legislation. The proposed legislation *inter alia* provides for the following, namely:—

(i) regulation of seeds and planting material of all agricultural, horticultural and plantation, crops so as to ensure availability of true to type seeds to Indian farmers;

(ii) provisions for constitution of a separate Registration Sub-Committee of the Central Seed Committee to look after the various registration aspects and maintenance of a National Register of Seeds of kinds and varieties;

(iii) check on the sale of spurious and poor quality seed and provisions for compensation to farmers;

(iv) provision of registration of seed producers, seed producing units, seed dealers and horticulture nurseries;

(v) regulation of sale of seeds and increasing the availability of quality seed for sowing;

(vi) increase in the seed replacement rate resulting in higher productivity;

(vii) simplification of procedures and placing a more efficient regulatory mechanism;

(viii) increasing private participation in seed production, distribution, certification and seed testing;

(ix) regulation of import and sale of transgenic seed and planting material;

(x) liberalised import of seed and planting materials compatible with World Trade Organisation (WTO) commitments;

(xi) provision for right of farmers for exemption from registration in certain cases.

6. The notes on clauses explain in detail the various provisions contained in the Bill.

7. The Bill seeks to achieve the above objects.

SHARAD PAWAR.

Notes on clauses

Clause 1.—This clause gives the short title of the Bill, the area of its operation and its applicability. The proposed legislation shall not be applicable to a producer in respect of seeds produced by him for his own use and not for sale. As adequate steps have to be taken for administering the provisions of the proposed legislation, provision has been made that different dates may be appointed for bringing different provisions of the proposed legislation into force.

Clause 2.—This clause contains definitions of certain expressions used in the Bill. The definitions of "agriculture", "Committee", "farmer", "horticulture nursery", "misbranded", "producer", "registered kind or variety", "seed", "spurious seed", "transgenic variety" and "variety" are some of them. The word "agriculture" includes horticulture, forestry, cultivation of plantation, medicinal and aromatic plants. The word "seed" is defined to mean any type of living embryo or propagule capable of regeneration and giving rise to a plant of agriculture, which is true to such type. "Kind" means one or more related species or sub-species of crop plants each individually or collectively known by one common name such as cabbage, maize, paddy and wheat. "Seed processing" means the process by which seeds and planting materials are dried, threshed, shelled, ginned or delinted (in cotton), cleaned, graded or treated. "Variety" means a plant grouping except micro-organism within a single botanical *taxon* of the lowest known rank, which can be defined by the expression of the characteristics resulting from a given genotype of that plant grouping or distinguished from any other plant grouping by expression of at least one of the said characteristics or considered as a unit with regard to its suitability for being propagated, which remains unchanged after such propagation and includes propagating material of such variety, extant variety, transgenic variety, farmers' variety and essentially derived variety. Some of these definitions are the same as given in the Seeds Act, 1966.

Clause 3.—This clause provides for the constitution of a Committee to be called the Central Seed Committee with its headquarters at New Delhi.

Clause 4.—This clause lays down the composition of the Central Seed Committee, i.e., a Chairperson, members, *ex officio*, and other members to be nominated by the Central Government. The nominated members include representatives from farmers, seed industry and specialists or experts in the field of seed development. It also provides for the terms and conditions of appointment of members to be laid down by rules. It also makes provisions for removal of the members other than the *ex officio* members by issuing show cause notice their resignation, etc.

Clause 5.—This clause lays down the powers and functions of the Central Seed Committee (hereafter referred to as the Committee). The Committee shall be responsible for and shall have all the powers for the effective implementation of the proposed legislation. These functions, *inter alia*, include advising the Central Government and the State Governments on matters relating to seed programming and planning, seed development and production and seed registration and its enforcement. It also empowers the Committee to make regulations for regulating its procedure and the procedure of its Sub-Committees.

Clause 6.—This clause provides the provision to specify minimum limits of germination, purity and maximum percentage of seed health, etc., and the requirements of marking or labelling of seeds on its containers.

Clause 7.—This clause contains the provisions for constitution of a Registration Sub-Committee and other Sub-Committees and their functions. The Registration Sub-Committee to be constituted by the Central Government shall consist of a Chairman and such number of other members of the Committee as may be determined by the Central Government by rules. It shall be the duty of the Registration Sub-Committee to register seeds of varieties after scrutinizing the claim made by the applicant.

Clause 8.—This clause empowers the Committee to make regulations, with the previous approval of the Central Government, for regulating its own procedure and the procedure of its Sub-Committees.

Clause 9.—This clause stipulates that the Central Government shall appoint a Secretary of the Committee and provide it with technical and other officers and employees of the Committee for the efficient performance of its functions under the proposed legislation.

Clause 10.—This clause provides for the conduct of the meeting of the Committee for transaction of its business. It also empowers the Committee to lay down detailed procedure of transaction of its business at meetings by regulations.

Clause 11.—This clause provides for the establishment of a State Seed Sub-Committee in every State by the concerned State Government. The State Seed Committee has, *inter alia*, to advise the State Government on registration of regional or local seeds of any kind or variety and to maintain a district-wise list of seed dealers, seed producers, seed processing units and horticulture nurseries.

Clause 12.—This clause provides for the maintenance of a register of all kinds and varieties of seeds to be called the National Register of Seeds by the Registration Sub-Committee. The specifications required to be incorporated in the register shall be laid down in the rules. The Registration Sub-Committee shall be required to publish a list of registered kinds and varieties of seeds at certain intervals as decided by it.

Clause 13.—This clause makes compulsory registration of all varieties as a pre-requisite for their sale in the market. Registration of the variety is based on the information as may be furnished by the producer to establish its performance on the basis of the results of multi-locational trials. Registration Sub-Committee may grant provisional registration as well as regular registration for specific periods depending upon the durability of the variety. The registration shall be valid for a period of fifteen years in case of annuals and biennial crops and eighteen years in case of long duration perennials.

Clause 14.—This clause lays down the procedure for registration of a variety. The form of application, the particulars to be furnished in such application and the fee payable shall be laid down by the Central Government in the rules. The Registration Sub-Committee will give due regard to the efficacy of the seeds, its safety to human beings and animals while laying down the conditions subject to which the certificate of registration is granted.

Clause 15.—This clause makes special provisions for registration of transgenic varieties which involves environmental problems. Submission of environmental clearance under the Environment (Protection) Act, 1986 or the rules made thereunder shall be a pre-requisite for registration of transgenic varieties. The procedure for registration in all other respects shall be the same as specified under clause 14.

Clause 16.—This clause lays down the grounds on which a registration granted under section 13 or section 15 could be cancelled. These grounds *inter alia* include violation of the terms and conditions of grant of certificate by the certificate holder, misrepresentation or concealment of material facts by the applicant, non-performance of the seed, prevention of commercial exploitation of the variety, etc. It is also provided that no such cancellation of registration shall be made unless the certificate holder is given a reasonable opportunity of showing cause in respect of the grounds for the proposed cancellation.

Clause 17.—This clause stipulates that the Registration Sub-Committee should notify in the Official Gazette, of every cancellation of registration of seeds of any kind or variety made by it.

Clause 18.—This clause states the grounds on which registration in respect of certain kinds or varieties of seeds should not be made. These grounds include prevention of commercial exploitation of the kind or variety of seed, if necessary to protect the public order,

public morality, human or animal or plant life and health or the avoidance of serious prejudice to the environment or that the seed contains a technology which would be harmful or potentially harmful. It is clarified that "technology" includes genetic use restriction technology and terminator technology.

Clause 19.—This clause provides for accreditation of certain agencies including the Indian Council of Agricultural Research, State Agricultural Universities and such other organisations fulfilling the eligibility requirements as may be specified by the Central Government, by rules, for conducting trials to evaluate the performance of any kind or variety of seeds.

Clause 20.—This clause seeks to provide adequate safeguard to provide compensation to the farmers in case any registered seed fails to provide the expected performance under given conditions. The compensation may be claimed from the producer, dealer, distributor or vendor as per the provisions of the Consumer Protection Act, 1986.

Clause 21.—This clause deals with the requirement and procedure for registration of seed producers and seed processing units with the State Government. However, the specifications in respect of infrastructure, equipment, qualified manpower, form of application, fee payable for registration, etc., will be laid down by rules by the Central Government.

Clause 22.—This clause provides for compulsory registration of seed dealers who carry on the business of selling, keeping for sale, offering the sell, bartering or importing or exporting seeds and also for requiring them to furnish information about the seed stock, sales and other related information. It further provides for giving an opportunity of being heard to the seed dealer in respect of suspension or cancellation of his registration.

Clause 23.—This clause provides that no person shall conduct or carry on business of horticulture nursery for any of the purposes of the proposed legislation unless such nursery is registered with the State Government. However, the form of application for registration, the fee payable for such registration, etc., will be laid down by rules made by the Central Government.

Clause 24.—This clause sets out the duties of the registration holders of horticulture nursery. The registration holder of every nursery is required to keep a complete record of the origin or source of every planting material and performance record of mother trees in the nursery, a layout plan showing the position of the root-stocks and scions used in raising the horticulture plants, a performance record of the mother trees in the nursery, the nursery plants and parent trees used for the production or propagation of horticulture plants free from infectious or contagious insects, pests or diseases affecting plants and also to furnish such information to the State Government on the production, stocks, sales and prices of planting material in the nursery as may be specified by the Central Government by rules.

Clause 25.—This clause prohibits the selling, bartering, importing, exporting, etc., of seeds which do not conform to certain specifications including conforming to the minimum limit of germination, genetic purity or physical purity or maximum seed health. It also provides that no seed should be sold without a label or mark on its container as specified by rules and complies with the other requirements prescribed by rules. The transgenic seed to be sold in the market should also bear a declaration about its nature.

Clause 26.—This clause provides for the establishment of a State Seed Certification Agency for every State by the Committee in consultation with the concerned State Government to carry out the functions entrusted to the State Seed Certification Agency by or under the proposed legislation.

Clause 27.—This clause provides for accreditation of organisations to carry out certification and the individuals or seed producing organisations to carry out self-certification of seeds in the manner as may be laid down by the Central Government by rules. It also empowers the Committee to withdraw the accreditation or self-certification facility for reasons to be recorded in writing.

Clause 28.—This clause deals with grant of certificate of seed by the Seed Certification Agency to any person selling, keeping for sale, offering to sell, bartering or otherwise supplying such seed. It also provides for the procedure for such certification as per the rules as may be made by the Central Government.

Clause 29.—This clause deals with revocation of certificate granted by the State Seed Certification Agency on the grounds of misrepresentation of essential fact, etc. However, before such revocation the certificate holder shall be given an opportunity to show cause against the proposed revocation.

Clause 30.—This clause provides for the recognition, for the purpose of the proposed legislation, of any Seed Certification Agency established in any foreign country. Such recognition will be granted by the Central Government on the recommendation of the Committee.

Clause 31.—This clause empowers the Central Government to constitute an appellate authority for the purpose of hearing and disposing of appeals of any person aggrieved by the decision of the Registration Sub-Committee, under section 14, section 16 or section 27 of the proposed legislation or of the State Seed Certification Agency under section 28 or section 29 thereof. These matters include cancellation of the registration of seeds of any kind or variety, accreditation of Seed Certification Agency, revocation of certificate, etc. The appellate authority is to be constituted with a single person or three persons by the Central Government as it thinks fit. This clause further lays down that the period of limitation of filing appeals shall be thirty days from the date of communication of the decision against which such appeal is sought for. The procedure for preferring appeal shall be laid down by the Central Government by rules.

Clause 32.—This clause provides for the establishment of a Central Seed Testing Laboratory or declaring any seed-testing laboratory as the Central Seed Testing Laboratory. All such laboratories are required to have as many Seed Analysts as the Central Government may specify. It also provides for the establishment of one or more State Seed Testing Laboratories by the State Government or recognizing any Government or non-Government laboratory as a State Seed Testing Laboratory. Every Seed Testing Laboratory of the State Government or recognised by the State Government as a State Seed Testing Laboratory is required to have as many Seed Analysts as the State Government may consider necessary.

Clause 33.—This clause deals with the appointment of Seed Analysts having prescribed qualifications. In case of the Central Seed Testing Laboratory, the Central Government and in other cases the State Governments shall appoint the Seed Analysts.

Clause 34.— This clause deals with the appointment of Seed Inspectors by the State Government. The qualifications and the area of jurisdiction of Seed Inspectors shall, however, be prescribed by the Central Government.

Clause 35.—Under this clause, the powers of the Seed Inspector have been defined. The places where samples may be taken, how to issue a stop sale order for a period of thirty days and how to seize the stock, ledger, etc., have also been specified. The provisions of search and seizure under the Code of Criminal Procedure, 1973 or in relation to the State of Jammu and Kashmir, the provisions of any corresponding law in force in that State, shall, so far as may be, apply to any search and seizure under this clause.

Clause 36.—This clause stipulates that the import of seeds would be subject to such seeds possessing of minimum standards of germination, genetic and physical purity and seed health as required under the proposed legislation read with the Plant Quarantine (Regulation of Import into India) Order, 2003 or any corresponding order made under section 3 of the Destructive Insects and Pests Act, 1914. The imported seed should also be registered with the multi-locational trials data. However, import of unregistered seeds may be permitted for research purposes in such quantity and subject to such conditions as may be notified by the Central Government.

Clause 37.—This clause provides for regulation of export of seeds by the Central Government on the advice of the Committee. If the Central Government considers that the export of seeds of any kind or variety would adversely affect the food security of the country or if it feels that the reasonable requirements of the public will not be met or on such other grounds as may be laid down by rules, the Central Government may restrict export of seeds.

Clause 38.—This clause lays down certain offences under the proposed legislation and the penalty for such offences. The penalty for contravention of the provisions of the proposed legislation and the rules made thereunder would be fine which shall not be less than five thousand rupees and which may extend to twenty-five thousand rupees. Sub-clause (2) of this clause lays down that if any person sells any seed which does not conform to the standards of physical purity, germination or health or does not maintain any records required to be maintained under the proposed legislation or the rules made thereunder he shall, on conviction, be punishable with fine which shall not be less than five thousand rupees but which may extend to twenty-five thousand rupees. Sub-clause (3) provides that if any person furnishes any false information relating to the standards of genetic purity, misbrands any seed or supply any spurious seed or spurious transgenic variety, sells any non-registered seeds he shall, on conviction be punishable with imprisonment for a term which may extend to six months or with fine which may extend to fifty thousand rupees or with both.

Clause 39.—This clause provides that if any person has been convicted under the proposed legislation for contravention of any of the provisions of it, the seed in respect of which the contravention has been committed shall be forfeited to the Central Government.

Clause 40.—This clause contains provisions for offences by companies. It seeks to provide that where a person committing offence is a company, every person responsible in the company for the conduct of its business will be liable and where a person accused, proves that the offence was committed without his knowledge he will not be liable. However, where it is proved that an offence has been committed with the consent or connivance or is attributable to the neglect of any Director, Manager, Secretary or any other officer of the company, he shall be deemed to be guilty of the offence.

Clause 41.—This clause sets out the powers of the Central Government to give directions to State Governments for carrying into execution of the provisions of the proposed legislation.

Clause 42.—Under this clause certain powers are sought to be given to the Central Government to issue directions to the Committee while discharging its function and duties under the proposed legislation. It further states that the decision of the Central Government, whether a question is one of policy or not, shall be final.

Clause 43.—This clause clarifies that nothing contained in the proposed legislation will restrict the right of a farmer to save, use, exchange, share, or sell his farm seeds and planting material. However, this exemption shall not be applicable in case of sale of seeds under a brand name or in case of seeds which do not conform to the minimum limit of germination, physical purity or genetic purity as may be prescribed by the Central Government. This clause also empowers the Central Government to exempt from the requirements of the proposed legislation or the rules made thereunder any educational, scientific or research or extension organisation by notification and subject to such conditions as may be specified in that notification.

Clause 44.—This clause seeks to provide immunity to persons from suits, prosecution and other legal proceedings in respect of anything which is done in good faith under the proposed legislation.

Clause 45.— This clause empowers the Central Government to remove any difficulty which may arise in giving effect to the provisions of the proposed legislation by order published in the Official Gazette. Such order shall not be inconsistent with the provisions of the proposed legislation. This power can be exercised only within two years from the

commencement of the proposed legislation. Every such order shall be required to be laid before each House of Parliament.

Clause 46.—This clause empowers the Central Government to make rules to carry out the provisions of the proposed legislation. Sub-clause (2) enumerates the various matters in respect of which such rules may be made. These matters, *inter alia*, include the terms and conditions of appointment of members of the Committee, the form of application for registration of varieties, the particulars which should be furnished in such application and the fee which shall accompany such application under proposed section 14 or section 15, scrutinizing applications for registration of the varieties, manner of registration of seeds, specifications which shall be maintained in the National Register of Seeds, periods for which multi-locational trials of seeds shall be conducted, eligibility requirements for accreditation of seed testing institutes, procedure for registration of seed producers, seed processing units, seed dealers and persons conducting or carrying on the business of horticulture nurseries, information on production, stocks sales and prices of planting material in a nursery to be furnished to the State Government and form and manner of filing appeal against the decisions of the Committee.

Clause 47.—This clause empowers the Central Seed Committee to make, with the approval of Central Government, regulations not inconsistent with the provisions of the proposed legislation and the rules made thereunder. These include the procedure for conduct of business to be transacted by the Central Seed Committee and its Sub-Committees and the procedure at meetings (including the quorum at such meetings) of the Committee.

Clause 48.—This clause provides that every rule made by the Central Government and every regulation made by the Committee under the proposed legislation shall be laid before each House of Parliament.

Clause 49.—This clause deals with repeal and savings. On the commencement of the proposed legislation, the Seeds Act, 1966 shall stand repealed subject to certain savings with regard to investigation, proceedings, penalty, forfeiture, punishment, notification of kind and variety, etc.

FINANCIAL MEMORANDUM

Clause 3 of the Bill provides that the Central Government shall, by notification in the Official Gazette, constitute for the purposes of the proposed legislation a Committee to be called the Central Seed Committee. Clause 4 of the Bill lays down the composition of the Committee. The Committee shall be constituted in the Department of Agriculture and Cooperation of the Ministry of Agriculture. The Secretary to the Government of India in the said Department shall be the *ex officio* Chairperson of the Committee. Sub-clause (4) of clause 4 provides for nomination of certain members including two representatives each of farmers and seed industry and two specialists or experts in the field of seed development.

Clause 9 of the Bill provides for appointment of a Secretary of the Committee and such technical and other officers and employees of the Committee by the Central Government. The Committee would be functioning as a part of the Department of Agriculture and Cooperation and existing staff of the Department will look after the work relating to the functioning of the Committee. Hence, no additional recurring or non-recurring expenditure except the travelling and daily allowance payable to the non-official members for attending the meetings of the Committee is envisaged.

Clause 31 of the Bill provides for filing of appeals against the decisions of the Registration Sub-Committee and State Seed Certification Agencies before the appellate authority. Sub-clause (2) of this clause stipulates that an appellate authority shall consist of a single person or three persons as the Central Government may think fit to be appointed. In case officials are appointed, no additional expenditure would be incurred. However, when non-officials or officials on deputation are appointed as appellate authority both recurring and non-recurring expenditure will be incurred. The requirement depends upon the number of cases. No additional expenditure towards establishment of office of appellate authorities is envisaged for the financial year 2004-05.

Clause 32 of the Bill provides for the establishment of a Central Seed Testing Laboratory and State Seed Testing Laboratories or declaring any seed-testing laboratory as such laboratories. Until new laboratories are established, no expenditure on account of implementation of this provision is envisaged for the current financial year, i.e., 2004-05.

Clause 33 of the Bill provides for appointment of Seed Analysts for the Central Seed Testing Laboratory by the Central Government and in other cases by the State Governments. The expenditure for appointment of Seed Analysts for the Central Seed Testing Laboratory and State Seed Testing Laboratories in the Union territories is to be borne by the Central Government.

Sub-clause (1) of clause 34 provides that the State Government shall appoint Seed Inspectors. The State Government in relation to Union territories being the Central Government the expenditure for appointment of Seed Inspectors for the Union territories is to be met from the Consolidated Fund of India.

The implementation of the aforesaid provisions would involve certain expenditure from the Consolidated Fund of India. However, it is not possible to give any specific figure of expenditure, as it would depend on the specific decision which may be taken on the manner of implementation.

It is estimated that a sum of rupees thirty-six lakhs approximately may be required to meet the recurring and non-recurring expenditure towards the above items during the financial year 2004-05. The Bill will not involve any other expenditure of a recurring or non-recurring nature from of the Consolidated Fund of India.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-clause (1) of clause 46 of the Bill empowers the Central Government to make rules for carrying out the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in respect of which such rules may be made under the proposed legislation. These matters, *inter alia*, relate to the terms and conditions of appointment of members of the Central Seed Committee, functions of the Registration Sub-Committee, the form of application for registration of varieties including transgenic varieties, the particulars to be furnished in such application and the fee which shall accompany such application, the manner of scrutinising of applications for registration of seeds, the eligibility requirements which an organisation shall fulfil for accreditation for conducting trial to evaluate the performance of any kind or variety of seed, the specifications required to be fulfilled for registration as a producer or as a seed producing unit, the form and manner in which an application for registration as a seed producer or a seed processing unit and the fee which shall accompany such application, the form in which and the time within which periodic returns shall be filed by seed producers and seed processing units to the Seed Certification Agency, the form and manner of making application for obtaining a registration certificate for dealership in seeds and the fee which shall accompany such application, the form in which an application for registration of a horticulture nursery shall be made, the particulars which such application shall contain and the fee which such application shall accompany, the information on production, stocks, sales and prices of planting material in a nursery to be furnished, the criteria to be fulfilled and the manner of self-certification of seeds, the form and manner in which an appeal shall be preferred against the decisions of the Central Seed Committee or a State Seed Certifying Agency, the manner of carrying out the functions of the Central Seed Testing Laboratory, the manner of carrying out analysis of seed by Seed Testing Laboratories, qualifications of Seed Analysts and Seed Inspectors, form and manner of preparation of memorandum of seed inspections and the grounds on which the Central Government may restrict export of seeds.

2. Sub-clause (1) of clause 47 empowers the Central Seed Committee to make, by notification in the Official Gazette and with the previous approval of the Central Government and not inconsistent with the provisions of the proposed legislation and the rules made thereunder, regulations to provide for matters for which provision is necessary or expedient for the purposes of giving effect to the provisions of the proposed legislation. Sub-clause (2) of that clause enumerates the matters in respect of which such regulations may be made under the proposed legislation. These matters, *inter alia*, include the procedure for conduct of business to be transacted by the Central Seed Committee or any of its Sub-Committees and the procedure in regard to the transaction of business at meetings of the Committee (including the quorum at such meetings).

3. Clause 48 of the Bill provides that the rules made by the Central Government and the regulations made by the Committee under the proposed legislation shall be required to be laid before Parliament.

4. The aforesaid matters in respect of which rules or regulations may be made relate to matters of procedure or administrative details and it is not practicable to provide for them in the Bill itself. The delegation of legislative power is, therefore, of a normal character.

YOGENDRA NARAIN
Secretary-General